

## § 874.1

874.13 Reclamation objectives and priorities.

874.14 Utilities and other facilities.

874.15 Limited liability.

874.16 Contractor responsibility.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, as amended.

SOURCE: 47 FR 28596, June 30, 1982, unless otherwise noted.

### § 874.1 Scope.

This part establishes land and water eligibility requirements, reclamation objectives and priorities, and reclamation contractor responsibility.

[59 FR 28171, May 31, 1994]

### § 874.11 Applicability.

The provisions of this part apply to all reclamation projects carried out with monies from the AML Fund.

[59 FR 28171, May 31, 1994]

### § 874.12 Eligible coal lands and water.

Coal lands and water are eligible for reclamation activities if—

(a) They were mined for coal or affected by coal mining processes;

(b) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the Fund may be sought under parts 886 or 888 of this chapter.

(d) Notwithstanding paragraphs (a), (b), and (c) of this section, coal lands and waters in a State or on Indian lands damaged and abandoned after August 3, 1977, by coal mining processes are also eligible for funding if the Secretary finds in writing that:

(1) They were mined for coal or affected by coal mining processes; and

(2) The mining occurred and the site was left in either an unreclaimed or in-

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adequately reclaimed condition between August 4, 1977, and:

(i) The date on which the Secretary approved a State regulatory program pursuant to Section 503 of the Act (30 U.S.C. 1253) for a State or September 28, 1994, for an Indian tribe, and that any funds for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

(ii) November 5, 1990, that the surety of the mining operator became insolvent during such period and that, as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site; and

(3) The site qualifies as a priority 1 or 2 site pursuant to Section 403(a)(1) and (2) of the Act. Priority will be given to those sites that are in the immediate vicinity of a residential area or that have an adverse economic impact upon a community.

(e) Any State or Indian tribe may expend funds may available under paragraphs 402(g)(1) and (5) of the Act (30 U.S.C. 1232(g)(1) and (5)) for reclamation and abatement of any site eligible under paragraph (d) of this section, if the State or Indian tribe, with the concurrence of the Secretary, makes the findings required in paragraph (d) of this section and the State or Indian tribe determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for the lands and water eligible pursuant to paragraphs (a), (b) or (c) of this section that qualify as a priority 1 or 2 site under Section 403(a) of the Act (30 U.S.C. 1233(a)).

(f) With respect to lands eligible pursuant to paragraph (d) or (e) of this section, monies available from sources outside the Abandoned Mine Reclamation Fund or that are ultimately recovered from responsible parties shall either be used to offset the cost of the reclamation or transferred to the Abandoned Mine Reclamation Fund if not required for further reclamation activities at the permitted site.